



Labor

**House Also Acting:**

# Senate Passes Bill to Change Government Worker Overtime

The Senate by voice vote Oct. 24 passed compromise legislation that would change overtime benefits for state and local government workers.

The bill (S 1570 — S Rept 99-159) is a companion measure to legislation (HR 3530) approved by voice vote Oct. 23 by the House Education and Labor Committee.

Education and Labor Chairman Augustus F. Hawkins, D-Calif., said he expected the House to take up HR 3530 Oct. 28 under suspension of the rules, a fast-track procedure that permits no amendments but requires a two-thirds majority of those voting for passage.

The legislation is designed to ease the impact of a Feb. 19 Supreme Court decision that would have required overtime pay for state and local government employees. The key section of both bills would allow states, cities and counties to give workers time-and-a-half compensatory time off for each hour of overtime worked, instead of cash. (Earlier story, *Weekly Report* p. 2068)

The Labor Department had intended to start implementing the decision, *Garcia v. San Antonio Metropolitan Transit Authority*, on Oct. 15, but Labor Secretary William E. Brock III postponed the enforcement date to Nov. 1 to give Congress time to act.

In *Garcia*, the court ruled that the minimum-wage and overtime provisions of the Fair Labor Standards Act (FLSA) apply to state and local government employees. The decision reversed a 1976 ruling, *National League of Cities v. Usery*, that had exempted state and local government workers from FLSA coverage. (Background, *Weekly Report* p. 1647)

Under FLSA, employers must pay time-and-a-half for hours worked beyond 40 a week, although police and firefighters may work a longer period before they must be compensated.

Employees can take compensatory time off instead of cash, but cannot store it up for future vacations.

While organized labor hailed the *Garcia* ruling, state and local officials claimed it would cost them more than \$1 billion in the coming year to pay employees for all their overtime.

In early September, labor unions representing public employees, and public employer organizations including the U.S. Conference of Mayors, National League of Cities and National Association of Counties got to-

gether and negotiated an agreement that resulted in the legislation now moving through Congress.

Sen. Pete Wilson, R-Calif. — a former mayor of San Diego — expressed reservations about S 1570. He said it still would result in higher costs for cities and counties and could result in a reduction of services. During brief Senate floor debate, Wilson said the compromise was “unstatesmanlike” and “will come back to haunt us.”

In addition to the time-and-a-half compensatory time provision, S 1570 allows public employees to get cash for overtime after accumulating 480 hours of overtime. (Under HR 3530, the 480-hour cap applies to employees who do seasonal, public safety or emergency work; other employees, such as clerical workers, could get cash after 180 hours' overtime.) The changes would take effect April 15, 1986. ■

## Bill Would Restrict Polygraph Tests

By voice vote Oct. 23, the House Education and Labor Committee approved legislation (HR 1524) that would bar most private employers from requiring employees to take lie detector (polygraph) tests as a condition of getting or keeping a job.

The bill, sponsored by Pat Williams, D-Mont., and Matthew G. Martinez, D-Calif., chairman of the Employment Opportunities Subcommittee, exempts state, local and federal government employers from coverage. It also makes clear that lie detector tests may be used in counterintelligence work and that persons under contract with the CIA or the National Security Agency would be subject to the tests. Individuals under contract with the FBI also may be subject to polygraph tests when doing counterintelligence work for the bureau.

Currently, about 20 states have some prohibition on the use of polygraph tests for employment, according to the Employment Opportunities Subcommittee. But representatives of organized labor, who have pushed the legislation, say a federal law is necessary because there are abuses.

Lou Gerber, legislative representative for the Communications Workers of America, said some employers use the tests to verify information on a person's application form and as a predictor of future behavior, for which they are unreliable at best. “Our view is that the philosophy of too many employers is ‘In God we trust; others we polygraph,’” Gerber said.

During the committee markup, Marge Roukema, R-N.J., sought to exempt private security services from coverage under the bill, but her amendment was rejected, 13-16.

By 20-9, the panel adopted an amendment by Dennis E. Eckart, D-Ohio, allowing companies that manufacture drugs to use lie detector tests under very specific circumstances involving missing or stolen narcotics.

Under HR 1524, an employer could be fined up to \$10,000 for violating the law. The Labor Department, which would implement and enforce the law, could seek a court order to restrain an employer from violating it, and individuals would have the right to sue an employer for violations.

—By Nadine Cohodas